WINSTON & STRAWN LLP

35 WEST WACKER DRIVE
CHICAGO, ILLINOIS 60601-9703

43 RUE DU RHONE
1204 GENEVA, SWITZERLAND

BUCKLERSBURY HOUSE
3 QUEEN VICTORIA STREET
LONDON EC4N 8NH

1700 K STREET, N.W.
WASHINGTON, D.C. 20006-3817

(202) 282-5000

FACSIMILE (202) 282-5100

www.winston.com

333 SOUTH GRAND AVENUE
LOS ANGELES, CALIFORNIA 90071-1543

200 PARK AVENUE
NEW YORK, NEW YORK 10166-4193

21 AVENUE VICTOR HUGO
75116 PARIS, FRANCE

101 CALIFORNIA STREET
SAN FRANCISCO, CALIFORNIA 94111-5894

WRITER'S DIRECT DIAL NUMBER
(202) 282-5848

June 4, 2008

VIA ELECTRONIC MAIL
Mr. Trevor Stockinger
IRELL & MANELLA LLP
1800 Avenue of the Stars
Suite 900
Los Angeles, CA 90067-4276

Re: ***GSK v. Abbott Labs.*, Case No. C 07-5702 CW**

Dear Trevor:

I write to follow up on my April 25, 2008 letter and our subsequent discussions regarding two of the more pressing concerns Abbott has with GSK's discovery responses. As I have noted previously, these are not Abbott's only concerns, and Abbott reserves its right to raise additional concerns and move to compel on grounds not addressed in this letter.

1. **Discovery Requests Relating to All ARV Drugs.** As noted in my previous letter, Abbott has sought discovery of documents and information concerning GSK's anti-retroviral ("ARV") drugs. This information is clearly relevant to defining the scope of the relevant market in this case, which Abbott believes includes all ARV drugs.

As reflected in its discovery responses and correspondence, GSK has taken the position that it will only produce documents relating to ARV drugs if those documents happen to discuss one or more of GSK's protease inhibitors. *See, e.g.*, Letter of 2/26/08 at 5. Abbott's position is that GSK's response does not satisfy its obligation to produce information relevant to a claim or defense, and that the parties have met and conferred in good faith in an effort to reach a resolution on this issue, but have not been able to do so.

In a final attempt to resolve the issue, I am providing the attached list of specific categories of relevant market documents that are encompassed by Abbott's existing document requests, but may not necessarily discuss one or more of GSK's protease inhibitors (which is the limitation GSK has imposed). Abbott has served an additional round of document requests concerning the relevant market that may arguably fall outside the scope Abbott's existing requests and also may not necessarily discuss one or more of GSK's protease inhibitors.

We believe that these two lists contain categories of documents that clearly relevant to determining the proper scope of the relevant product market in this case. If GSK refuses to produce all non-privileged documents responsive to these requests, we intend to move to compel their production.

Abbott also notes that additional categories documents may be relevant and necessary to determining the scope of the relevant product market in this case, including categories of documents identified in Abbott's existing document requests. Accordingly, through this letter, Abbott does not waive its right to seek further production of information responsive to past or future discovery requests concerning the relevant product market.

2. **AIDS Healthcare Foundation v. GSK.** As you know, Abbott has sought production of documents relating to other antitrust litigation involving GSK. *See* Abbott's RFP Nos. 69-78. Among other things, GSK's positions on issues such as the scope of the relevant market and what type of conduct constitutes exclusionary conduct under Section 2 of the Sherman Act is clearly relevant in this case.

GSK's supplemental interrogatory responses note that GSK was involved in an antitrust case specifically dealing with ARV drugs, *AIDS Healthcare Foundation v. GlaxoSmithKline PLC, et al.*, Case Nos. CV-02-5223 and CV-03-02792 ("*AHF*"). In your May 7, 2008 letter, you note that GSK has offered to produce pleadings, deposition transcripts, deposition exhibits, hearing transcripts, expert reports, motions and orders to the extent they relate to relevant market issues in the *AHF* case, but only if "Abbott agreed to withdraw its requests for any other documents produced in matters other than the case at bar, including those sought in Abbott's RFP Nos. 69-78." Letter of 5/07/08 at 6.

Abbott will not agree to waive any of its rights in exchange for GSK's agreement to produce documents and information that it is required by the Federal Rules to produce. The Federal Rules do not permit GSK to so condition its production of relevant information.

GSK has had an opportunity to raise objections to Abbott's request for information and documents concerning other litigation in which GSK was involved, and any disputes relating to those objections hopefully can be resolved between the parties at a later date. In the meantime, Abbott is entitled to discovery of relevant information from the *AHF* case concerning the proper definition of the relevant product market. Thus, if GSK is unwilling to produce all pleadings, deposition transcripts, deposition exhibits, hearing transcripts, expert reports, motions and orders relating to relevant market issues in the *AHF* case, Abbott will seek court intervention.

I look forward to speaking with you as soon as possible concerning these and any other discovery issues you would like to discuss.

Sincerely,

Matthew A. Campbell

Matthew A. Campbell

cc: Charles B. Klein
Samuel S. Park

ATTACHMENT

	Category[1]	Previous Request
1.	All documents containing market share estimates for ARV drugs.	Abbott's RFPs 39, 91
2.	All documents containing estimates of growth in sales or prescriptions of drugs in different ARV drug classes.	Abbott's RFPs 42, 43, 44
3.	All documents that promote or market GSK's NRTI drugs in comparison to PIs and/or NNRTIs in terms of efficacy, toxicity, side effects, resistance, restrictions, pill burden, dosing frequency, ease of use, drug interactions, and price.	Abbott's RFP 28
4.	All documents relating to physician or patient education programs comparing GSK's NRTI drugs to PIs or NNRTIs.	Abbott's RFPs 28, 31
5.	All documents comparing prices of ARV drugs belonging to different ARV drug classes.	Abbott's RFPs 23, 25, 64, 89, 90
6.	All documents comparing prices of GSK's NRTI drugs with prices of PIs or NNRTIs.	Abbott's RFPs 23, 25, 64, 89, 90
7.	Pricing strategies or analyses for Lexiva or GSK's NRTI drugs that consider the price or characteristics (*e.g.*, efficacy, toxicity, side effects, resistance, restrictions, pill burden, dosing frequency, ease of use, drug interactions) of PIs or NNRTIs.	Abbott's RFPs 23, 25, 64, 89, 90
8.	Analyses or recommendations of price changes in Lexiva and/or GSK's NRTI drugs that consider price changes in, or sales of, PIs or NNRTIs.	Abbott's RFPs 23, 25, 64, 89, 90
9.	All documents comparing the price of Trizivir to the prices of PI-anchored or NNRTI-anchored treatment regimens.	Abbott's RFPs 23, 25, 64, 89, 90

[1] Abbott incorporates by reference the definitions and instructions set forth in its discovery requests.

	Category[1]	Previous Request
10.	All marketing documents touting Trizivir in comparison to PI-anchored or NNRTI-anchored treatment regimens in terms of efficacy, toxicity, side effects, resistance, restrictions, pill burden, dosing frequency, ease of use, drug interactions, and price.	Abbott's RFPs 28, 31
11.	All materials relating to physician or patient education programs comparing Trizivir to PI-anchored or NNRTI-anchored treatment regimens.	Abbott's RFPs 28, 31
12.	All documents containing market share estimates in the ARV drug anchor market.	Abbott's RFPs 39, 91
13.	All documents comparing growth in sales or prescriptions of ARV drug anchors.	Abbott's RFPs 42-44
14.	All documents that promote or market Lexiva in comparison to any NNRTI in terms of efficacy, toxicity, side effects, resistance, restrictions, pill burden, dosing frequency, ease of use, drug interactions, and price.	Abbott's RFP 28
15.	All documents relating to physician or patient education programs comparing Lexiva or Lexiva-anchored treatment regimens to any NNRTI or NNRTI-anchored treatment regimens.	Abbott's RFPs 28, 31
16.	All documents comparing the price of Lexiva to any NNRTI.	Abbott's RFPs 23, 25, 64, 89, 90
17.	All documents comparing the price of Lexiva with the prices of other ARV drug anchors.	Abbott's RFPs 23, 24, 64, 89, 90